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MEETING OF THE ADVISORY COUNCIL ON AGRICULTURE

Department of Agriculture and Markets Building, 10B Airline Drive
Albany, New York
December 4, 2020

Present via WebEx: N. Rea, F. Beyrodt, Jr., J. Bittner, S. Casella, A. Machamer, K. Wagner, D. Haight, AFT, Commissioner R. Ball, Deputy J. Czub, Deputy D. Valesky, C. Logue, M. Latham, J. Rusnica, J. Littrell, E. Cook, K. Howard, D. Behm, G. Palmer, J. Kehoe, B. Steinmuller, B. Bzduch.

10:00 AM Welcome – Neal Rea, Chair

- Received over 100 requests for solar arrays since May
- Not sure where the Biden Administration is headed as to who is being considered as Secretary of the USDA – will that position be focused on ag labor or ag industry issues?
- Sam/Frank moved minutes of last meeting approved; no abstentions or objections

10:10 AM Opening Remarks, Department Update - Commissioner Ball

- Many things to talk about and no shortage of things to think about
- COVID-19 has not postponed agriculture in NY; most time/effort on reconnecting the food supply chain and food safety matters; many staff worked 7 days per week early on in this pandemic to help the overall system to keep working
- Now heading into policy and budget time
- He responded to Chair Rea's comment regarding potential USDA Secretary; national organization for which Commissioner chairs has not yet been queried by the Biden Administration
- We are updating the appointments process. Jackie requested all members submit a current resume to Stephanie when contacted to do so.

10:30 AM Pollinator Protection Plan - Update, Next Steps – Jackie Czub, Deputy Commissioner

- Effort initiated by Governor Cuomo in 2015 in conjunction with nationwide significant loss of pollinators; 50% reduction in NY
- Mission is to prep a pollinator protection plan involving several state agencies
- Much stakeholder engagement in the process from broad spectrum of interests
- Plan has 4 key areas: 1) development of BMPs for each stakeholder group, (2) habitat enhancement, (3) research, and (4) outreach and education (including training)
- Plan is unique among those prepared by other states
- \$500K each year from EPF for research with \$300K of that to AGM (with Cornell); another \$550K (from other sources) to Cornell for honeybee research
- Many aspects of Cornell's ongoing research complement ongoing efforts here at AGM
- Focus on factors leading to colony collapse: pesticides (insecticides, fungicides), crops grown (especially apple and strawberry), bee genetics, bee pathogens
- Now preparing 2020 update to the plan
- tech team has been effective in reducing colony collapses and addressing bee mites

- finding pesticide residues in bee wax
- Where to go from here? Reassess current and future needs for research; should we evaluate, or should we continue what we now have underway? What native pollinators most susceptible and what land uses are adjacent to those populations?
- AGM is seeking legislation to establish an apiary registry at county level to help in locating all hives along with changes to apiary advisory membership and recommending a Tax & Finance property tax exemption for apiaries
- Commissioner emphasized that we all recognize that while we've achieved significant strides in an area or two that we initially identified, that is not enough – we need to make similar achievements in all of the areas in the plan; thankfully, NY remains at only about half the national average loss of pollinator population
- Jim B asked about sampling of bee populations regarding
- Amy M commented that it has been increasingly confusing/difficult to rent hives from beekeepers (particularly in western NY) – can growers have an easier source of bees?; overwintering bee populations in FL and CA seems to always result in bees arriving back in NY later and later each spring; raised a question of import of honey from China to local stores
- Commissioner commented that there are 65 beekeeping clubs throughout NY; he reassured Amy that plenty of NY-produced honey is available throughout the state and AGM has commented to USDA its concerns about safety of honey imported from China
- David H inquired about (1) incentive to growers to establish pollinator habitat and (2) if pollinator habitat is a requirement for approval of solar projects; Jackie indicated that (1) no financial incentive was addressed in 2016 and (2) legislation has been introduced to consider that matter; David offered to send AFT effort in MI to offer an incentive to growers and mentioned that the effort is privately funded for 5 year agreements offering \$200-\$500/acre to establish pollinator habitat
- Amy commented their farm awarded a grant from Bayer to establish pollinator habitat; may still be other private funding sources/programs available nationwide

10:45 AM Climate Action Council Activities – Dave Valesky, Deputy Commissioner

- First commented on where Council came from – CLCPA was enacted and it placed GHG emission goals and clean energy goals (most aggressive in nation) over the next 30 years as well as establishing the Climate Action Council
- Council includes Commissioner of AFM and it has set an agenda through 2050
- Draft scoping plan by 2022 and final plan by 2023; CLCPA requires Council to establish advisory panels (various aspects of state economy); Ag panel chaired by Commissioner
- Ag panel work plan defining GHG reductions, strategies to do so, and strategies for climate adaptation
- Four goals for ag/forestry sector: (1) Carbon sequestration, (2) GHG emission reductions, (3) enhancing ag/forestry sector, and (4) supporting NY bioeconomy
- David H asked if there may be opportunities with the incoming Biden Administration; David V responded that we are hopeful NY's efforts will be welcomed and supported by Washington, D.C.
- Neal commented about NUTRIENT's manure reuse as source of bioenergy

11:00 AM Owasco Watershed Draft Rules, Regulations – Brian Steinmuller, Land and Water

- NY Public Health Law enables DOH to promulgate rules/regs to protect drinking water and those enable local governments to similarly regulate watershed activities for that purpose
- Owasco Watershed has had rules since 1985; City of Auburn and Town of Owasco promulgated rules in spring 2017
- Cayuga County Planning Dept. initiated an effort to address watershed issues and water quality concerns
- March 2019 draft rules were made available to public; from then until Oct 2020, many public meetings/hearing and public comments were received including its local steering committee reaching out specifically to AGM
- 10/29/2020 final draft regs were adopted locally and it is currently under review by DOH; proposed regs are available on Cayuga County website
- All farms > 7 acres in agricultural production that spread manure or use commercial fertilizer must have farm management plan
- Regs include other specific parameters regarding siting of certain structures, where livestock may have access to surface waters, siting of road salt storage, and other matters associated with potential contaminants
- If approved by DOH, the regs will have full force and effect of State law
- Neal asked for clarification on minimum size and also extent of opportunity for landowners to comment on the development of these proposed rules
- Jackie asked for context regarding size of this watershed; Brian responded that Owasco Lake is largest of Finger Lakes area, lies in 3 counties and most involvement has come from Cayuga County – he also mentioned that many other water quality and watershed management planning efforts have been underway, involving a much larger group of counties, SWCDs and other stakeholders
- Kim asked, if approved, would this approach be applicable in other watersheds, such as NYC
- Sam commented about Gov Cuomo's veto of recent legislation to add class C streams requiring a permit from DEC and expressed his appreciation (as well as on behalf of local governments and SWCDs) that the Gov vetoed that legislation
- Mike L emphasized that, if approved, these regs will have the effect of NYS law – thus, AGM shall not be allowed to override this local law should we otherwise deem a situation to be an unreasonable restriction on a Farm Operation; this situation is significant in that neither local government shall be required to provide any financial assistance to the affected landowner to assist that landowner to implement a necessary "fix" to address the water quality concern regulated by this law
- Commissioner commented that the other two counties' portion of this watershed will NOT be regulated and openly shared his concern that there will be uneven regulation of land uses within the same watershed – this is a scenario that would not seem to be appropriate over more of the state

11:20 AM Industrial Hemp Odor Issue – Chris Logue, Plant Industry

- Industrial hemp research program since 2016; limited to 10 registrants at that time; currently 719 growers with 33,000 acres of hemp production registered in the program – interest has grown exponentially
- Those 33,000 acres is found on some 2,000 sites across the state

- Odor complaints are relatively small component of the history of this program; most common complaint is that the crop's odor is very strong and that the complainant's quality of life is diminished (sometimes their property value is reduced, sometimes their health is impacted)
- Couple of complaints have arisen from land enrolled in Ag District – thus, this agenda item is to bring this issue (and its potential to increase in occurrence) to attention of ACA
- Jackie acknowledged that hemp has moved from pilot research effort to one (especially because of new opportunities due to Federal Farm Bill) that will likely expand rapidly while AGM involvement will likely become less – i.e., no different than any other commodity crop
- Neal asked for clarification on what is “industrial hemp” – Chris clarified that the acres registered represent 20% is CBD and 80% is fiber/grain
- Mike L commented that currently only one active case pursuant to AML Article 25-AAA regarding a building used for drying the product; when confined in a building, drying process can result in a concentration of odor.

11:30 AM Solar Siting – Andy Steiner, Land and Water

- Works with review of Notice of Intent regarding solar projects proposed within Ag District; exponential growth in solar projects (98 in 2019; 164 so far in 2020!), nearly all of which are proposed on ag land
- We seek avoidance of ag lands and, when not possible, AGM seeks mitigation from project company; most common form of mitigation has been for project company to provide funds to enable the acquisition of conservation easement on other ag land
- Thus far, 19 proposals for fee mitigation and another was to accept an easement on another part of a farm that was to serve as the site of the proposed solar project
- We are considering co-use as supplemental mitigation
- Frank would like to ask Mike L about Article 10 to 94C (?) process; Frank will follow up with Mike outside of this meeting; Mike emphasized that there is no Article 10 project yet under construction, so we don't really know how it will work
- Amy commented that renewable energy is very important and farmers should have opportunity to engage with a lucrative financial arrangement with solar companies; however, she is concerned that such companies need to make an investment in clearing the marginal lands for the site of such projects that would hopefully have them sited off of high quality soils; she also commented that landscape views are negatively impacted, yet the private landowners adjoining these sites are not considered as to what financial impact they suffer as well as the potential impact on property value reduction on a community's local economy

11:45 AM ISLANDIA vs Suffolk County – John Rusnica, Counsel's Office

- Involve a small horse boarding and equine operation located in Village of Islandia
- AML Section 303b annual inclusion case; this is the third litigation on this single matter
- Village is now actively working to avoid having any additional parcels being added to an Ag District within its jurisdictional boundary
- Court issued harsh opinion of Suffolk County's handling of Environmental Quality Review matters associated with this inclusion
- This matter has helped us take a closer look at the Department's Environmental Assessment Form (EAF) that we will offer county governments

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- Frank commented that farming in suburbia (i.e., within the Village) has become very problematic
- Jim commented that it is a challenge for the County AFPB to support the inclusion of very small parcels into an Ag District, especially in such landscape contexts, and even the AFPB often seeks guidance on what parcels deserve protections and which ones should be enrolled
- Sam commented that Bob Somers has recently retired and will be missed tremendously because of his expertise and great ability to assist landowners across the state that have deserved the protections afforded by AML Article 25-AA; many others, including Commissioner, echoed that sentiment

(general comments)

- Sam also commented that NY, under Governor Cuomo's leadership, has demonstrated so much leadership in support of agriculture in NY and we are most fortunate to have these resources and capable staff working on behalf of agriculture in NY – he asked Commissioner to relay our thanks for his ongoing support and leadership

Noon Wrap Up, Closing Remarks – Commissioner Ball

- Commissioner reiterated the challenges statewide that COVID-19 caused and how the Governor, Department, and the industry responded individually and collectively to ensure that food would be available to all – great example of collaboration and innovation to ensure the food supply chain was functioning; he thanked everyone for their positive feedback

Neal commented that, with this format, we can accomplish a lot and he thanked everyone

Completer recording of the meeting can be found at:

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Meeting adjourned at 12:32pm